

Application. No. 10/675,076
RCE - Reply to Final Office Action of April 18, 2007

REMARKS / ARGUMENTS

The present application includes pending claims 1-30, all of which have been rejected. By this Amendment, claims 1, 3, 5-7, 9-11, 13, 15-17, 19-21, and 27 have been amended, as set forth above, to further clarify the language used in these claims and to further prosecution of the present application. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-2, 4, 8-9, 11-12, 14, 18-19, and 21-24 stand rejected under 35 U.S.C. § 112, second paragraph. Claims 1-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over ReplayTV 4000 User Guide, published by SONICblue Incorporated (hereinafter, SONICblue), in view of US Patent Publication 2002/0006161 of Van Der Schaar ("Van Der Schaar"). The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

I. REJECTION UNDER 35 USC § 112

The Examiner has rejected claims 1-2, 4, 8-9, 11-12, 14, 18-19, and 21-24 under 35 USC 112, second paragraph. The December 22, 2006 Office Action states the following:

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The term "television" in claims 1, 2, 4, 8, 9, 11, 12, 14, 18, 19, 21 - 24, and 27 - 30 is used by the claim to mean a device capable of "controlling devices . . . and generating at least one command that causes the delivery of media" and further "controlling the delivery of the media" (pg. 4 and 5), while the accepted meaning is "an electronic device that receives television signals and displays them on a screen" (as defined by wordnet.princeton.edu). The term is indefinite because the specification does not clearly redefine the term.

See the December 22, 2006 Office Action at page 3. The Final Office Action maintains the above rejection under 35 U.S.C. § 112. Apparently the Examiner is relying on the use of the term "television" in the specification and alleges that it requires clarification. The Applicant respectfully disagrees with this rejection.

The test for whether claim language is sufficiently definite to be patented is as follows:

The requirements for clarity and precision must be balanced with the limitations of the language and the science. If the claims, read in light of the specification, reasonably apprise those skilled in the art both of the utilization and scope of the invention, and if the language is as precise as the subject matter permits, the statute (35 U.S.C. § 112, second paragraph) demands no more.

See § 2173.05(a) MPEP.

The relevant statute, 35 U.S.C. § 112 ¶ 2 (1988), requires that the claims "particularly [point] out and distinctly [claim] the subject matter which the applicant regards as his invention." **The operative standard for determining whether this**

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requirement has been met is "whether those skilled in the art would understand what is claimed when the claim is read in light of the specification."

With regard to the use of the term "television" and its associated functionalities as described in the specification, the Applicant respectfully disagrees and submits that the specification is sufficiently clear and no further clarification is required. The Examiner is referred to, for example, Figure 1 and corresponding paragraphs 28-49 or Figures 9A-9B and corresponding paragraphs 93-98, where **it is clearly explained that a television may be used in connection with, for example, a media processing system (such as, for example, MPS 116 in Figure 1 or MPU 904 in Figure 9A), providing for user interface functionality, distributed storage functionality, networking functionality, and control and monitoring of media devices (please see paragraph 30 or paragraph 95, for example).** Therefore, the Applicant submits that **the use of the term "television", when interpreted in light of the specification and the figures, is sufficiently clear and readily understandable to a person ordinarily skilled in the art upon review of this specification.**

Nevertheless, the Applicant has amended independent claims 1, 11, 21, and 27, as set forth above, to further clarify the language used in the claims. At least for the above reasons, the Applicant submits that the rejection under 35 USC § 112 should be withdrawn.

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II. REJECTION UNDER 35 U.S.C. § 103

Claims 1-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over ReplayTV 4000 User Guide, published by SONICblue Incorporated (hereinafter, SONICblue), in view of US Patent Publication 2002/0006161 of Van Der Schaar ("Van Der Schaar"). The Applicant respectfully traverses these rejections at least based on the following remarks.

A. Rejection of Independent Claims 1, 11, 21, and 27

With regard to the rejection of independent claim 1 under 103(a), the Applicant submits that the combination of SONICblue and Van Der Schaar does not disclose or suggest the limitation of "transferring the media from a **first media processing device at a first geographic location** to at least a **second media processing device at a second geographic location**," as recited by the Applicant in independent claim 1 (emphasis added).

The Final Office Action states the following:

Regarding claims 1 and 11, SONICblue shows a method for, and a machine readable storage, that, when executed, causes a computer to perform steps comprising: controlling communication of media from system including a digital video recording device and a television, without consuming the media by said television or said digital video recording device, and transferring the media from 'a first location to at least a second location according to said controlling communication (pg. 55).

SONICblue does not show where said digital video recorder device and said television are combined into one device, resulting in said controlling

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communication being by said television.

Van Der Schaar et al. show where said digital video recorder device and said television are combined into one device, resulting in said controlling communication being by said television (Fig. 8, [0045]).

See the Final Office Action at pages 2-3. The SONICblue document reference is a User Guide for a “ReplayTV” digital video recorder (DVR). The ReplayTV DVR is also featured at www.replayTV.com. The Applicant also points out that the SONICblue document discloses only functionalities provided by the ReplayTV DVR in relation to processing of media only at a specific geographic location, i.e., the user’s home. For example, SONICblue discloses network functionalities of the ReplayTV DVR with regard to accessing and transferring media **only within a given home network environment and not between different geographic locations**. See SONICblue at page 55. SONICblue also discloses that **the ReplayTV DVR can access other networked ReplayTVs only in the same user’s home and not at another geographic location, e.g., another home/residence**. See *id.* at page 57. Van Der Schaar does not overcome these deficiencies of SONICblue.

Therefore, the Applicant maintains that the combination of SONICblue and Van Der Schaar does not disclose or suggest the limitation of “transferring the media from a first media processing device at a first geographic location to at least a second media processing device at a second geographic location,” as recited by the Applicant in independent claim 1.

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Independent claims 11, 21 and 27 were rejected under a similar rational, based on the combination of SONICblue and Van Der Schaar. Since independent claims 11, 21 and 27 are similar in many respects to the method disclosed in independent claim 1, the Applicant submits that independent claims 11, 21 and 27 are also allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

B. Rejection of Dependent Claims 2-10, 12-20, 22-26 and 28-30

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11, 21 and 27 under 35 U.S.C. § 103(a) has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-10, 12-20, 22-26 and 28-30 depend from independent claims 1, 11, 21 and 27, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-10, 12-20, 22-26 and 28-30.

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CONCLUSION

Based on at least the foregoing, Applicant believes that all pending claims 1-30 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a phone interview, and requests that the Examiner telephone the undersigned at 312-775-8000.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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